HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P.No.9529 of 1988

Date of decision : 14.03.2007

Jalandhar Improvement Trust .....Petitioner

versus

The Tribunal Constituted under the Punjab Town Improvement Trust, Jalandhar and ors .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: None for the petitioner
Mr.Ashok Aggarwal, Senior Advocate with
Mr.Alok Jain and Mr.Amit Aggarwal, Advocates
for the respondent Nos.2 to 17.

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ORDER

HEMANT GUPTA, J.

The writ petition is directed against the award of the learned Land Acquisition Tribunal dated 20.1.1988, whereby compensation @ Rs.170/- per marla was awarded for the land acquired, alongwith interest @ 12% per annum on the amount of compensation from the date of notification under Section 36 of the Punjab Town Improvement Act, 1922 (hereinafter referred to as the Act), till the date of the award, solatium at the rate of 30%, interest at the rate of 9% per annum from one year from the date of award and interest at the rate of 15% per annum for a period of one year after the award of the Collector till payment.

The State Government issued notification under Section 36 of the Act on 21.6.1963 intending to acquire the land for a public purpose. Vide notification dated 2.11.1965, the development scheme, prepared by

the petitioner, was notified in the Gazette of the State Government. The scheme was in respect of 499 kanals 7 marlas of land, but the land sought to be acquired was 237 kanals 15 marlas. The Land Acquisition Collector, Improvement Trust, Jalandhar, vide Award No.1 of 1965-66, determined the compensation of the acquired land @ Rs.115/- per marlas for the land falling in belt `A' and Rs.50/- per marlas for the land falling in belt `B'. One Kapoor Chand, respondent No.17, claimed compensation on the basis of his tenancy rights. Dissatisfied with the amount of compensation, the land owners as well as the tenant made reference under Section 18 of the Land Acquisition Act, 1894 read with Section 54 of the Act. The learned Tribunal determined the compensation @ Rs.170 per marlas for the acquired land and also granted additional benefits in terms of the amended provisions of the Land Acquisition Act, 1894.

Though the petitioner has challenged the award of the Land Acquisition Collector in respect of the market value assessed, but the same is not tenable for the reasons that the same has been assessed in view of the earlier order of the learned Tribunal, Exhibit P-1 & P-2.

The primary stress of challenge in the writ petition is the award of the additional benefits granted to the claimants in terms of the amended provisions of the Land Acquisition Act, 1894. The issue regarding grant of additional benefits stands concluded by the Hon'ble Supreme Court of India in ***"Nagpur Improvement Trust versus Vasantrao and others, 2002 (7) Supreme Court Cases-657.*** In the aforesaid judgment, the writ petitioner was also party to the petition arising out of some other acquisition. The Hon'ble Supreme Court has

held that the provisions of the Land Acquisition Act, 1894 have been incorporated in the Punjab Town Improvement Trust Act, 1922.

In view thereof, the grant of additional benefits of solatium and interest in terms of Section 23 (2) and 28 of the Land Acquisition Act, 1894 are payable to the land owners. However, that part of the award granting benefit under Section 23 (1) (A) of the Act is set-aside being contrary to the Constitutional Judgment of the Hon'ble Supreme Court of India in ***"K.S.Papipooran versus State of Kerala and others, 1994 (5) Supreme Court Cases-593"*** and in view of the judgment of Nagpur Improvement Trust's case (supra).

In view of the above, the writ petition stands dismissed except to the extent mentioned above.

(HEMANT GUPTA)
JUDGE

March 14, 2007
**mohinder*